

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 5:03-00180

DANNY TILSON

MEMORANDUM OPINION AND ORDER

On May 2, 2005, the defendant appeared in person and by counsel, Robert B. Allen; the United States appeared by Joshua C. Hanks, Assistant United States Attorney; and Thomas D. Stevens, Jr., Supervising United States Probation Officer, appeared for a hearing on the motion of the United States, pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

The court heard from the United States, defendant, and his counsel. Noting that the assistance offered by defendant was indeed substantial as represented by Assistant United States Attorney Forbes in her memorandum filed with the court, the court GRANTED the United States' motion. Accordingly, the court departed downward from its original sentence in this matter as follows:

1. The court departed downward from the original offense level of 21 by 4 levels to an offense level of 17;
2. Defendant's criminal history category is I;
3. Accordingly, the Guideline range is incarceration for 24 to 30 months, and a fine range of 5,000.00 to

1,000,000.00, plus the costs of incarceration and supervision.

The court imposed a new sentence upon defendant, consisting of a 24-month term of incarceration, with credit for time served. The court also reimposed an order of restitution in the amount of \$957,827.07, the amount ordered at defendant's original sentencing hearing. With the exception of the reduction in the term of incarceration, the requirements and directives of the previously entered Judgment shall remain in full force and effect.

After imposing the sentence, the court reviewed each of the statutory objectives of sentencing and found that the sentence imposed herein served each of those statutory objectives set forth in 18 U.S.C. § 3553(a), as well as the requirements of United States v. Booker, 125 S. Ct. 738 (2005), and United States v. Hughes, 396 F.3d 374 (4th Cir. 2005).

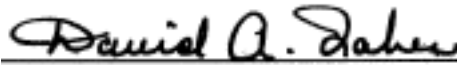
Defendant is informed of his right to appeal the sentence, insofar as it may be appealable, and the requirement that to initiate such an appeal, a Notice of Appeal must be filed in this court within 10 days. Defendant is further advised that if he wishes to appeal the sentence and cannot afford to hire counsel to represent him on appeal, the court would appoint counsel for him. The defendant is also advised that if he so requests, the Clerk of the court will prepare and file a Notice of Appeal of his behalf.

The defendant was remanded to the custody of the United States Marshals Service.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, the United States Marshal for the Southern District of West Virginia, and the Probation Office of this Court for forwarding to the Sentencing Commission and Bureau of Prisons.

IT IS SO **ORDERED** this 5th day of May, 2005.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge